

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

TONY L. TABUBA,
a/k/a "Tony L. Tabubu,"
a/k/a "Tony Drake,"
a/k/a "Keith Blackwell,"

KEITH LAMONT SIMS,
YVETTE RANEA BAILEY,
a/k/a "Quashamiqe Caldwell,"
a/k/a "Kameelah Muhammad,"
a/k/a "Jahmilla Malik,"
a/k/a "Fahtima Schneiver,"

DOLLY ANN COOPER,
a/k/a "Sunsha Rosea Cervantas,"
a/k/a "Diane Pace,"
a/k/a "Jasmine Monique Salazar,"
a/k/a "Donna Smith,"

MARK CARILLO,
ERIC McGOWAN, and
CRYSTAL STAUDT,

Defendants.

NO. CR05-00182P

SECOND STIPULATED
MOTION AND ORDER TO
CONTINUE TRIAL DATE

I. RELIEF REQUESTED

The remaining parties to this action,¹ with the exception of Defendant Keith Lamont Sims, jointly stipulate and move the Court to continue the trial date to **October 17, 2005**, or any other date before the end of October 2005, convenient for the Court's schedule.²

II. BACKGROUND

Defendants are all charged by Indictment with one count of Conspiracy to Make and Distribute Counterfeit Traveler's Cheques, in violation of 18 U.S.C. § 371. Some of the individual defendants are also charged with multiple substantive counts of Making and Distributing Counterfeit Traveler's Cheques, in violation of 18 U.S.C. §§ 513 and/or 514.

This case is factually complex. Briefly, the Government has alleged that defendant Tony Tabuba printed a large number of counterfeit Visa and American Express traveler's cheques, with a purported face value of \$100 each. The remaining defendants were allegedly involved, in various capacities, in passing the counterfeit traveler's cheques to merchants. Some 3,000 such counterfeit traveler's cheques were allegedly passed throughout Washington, Oregon, California, Nevada, and Louisiana.

To date, some 2,235 pages of written discovery has been produced, together with additional recorded witness statements, photographs, and other types of discovery. Some of this discovery, consisting of approximately 1,400 pages of local police reports and other documents, were only recently received by the Government from local law enforcement. This discovery was produced on August 2, 2005.

The Indictment was filed on May 4, 2005. Trial was originally set for July 18, 2005.

¹ Defendant Yvette Renea Bailey pled guilty on August 24, 2005. Defendant Crystal Staudt's trial date is already set for October 17, 2005, therefore it was unnecessary to consult Staudt's attorney regarding this filing.

² Defendant Keith Lamont Sims' position on this motion is currently unknown. Mr. Sims' counsel, Neil Fox, originally indicated he agreed with the requested continuance. However, Mr. Fox recently contacted counsel for the Government and indicated he would be moving to withdraw as counsel for Mr. Sims. The motion to withdraw has not been filed as of yet, and Mr. Sims' position and/or the position of his new, as yet unnamed counsel is obviously unknown at this time. However, it seems probable that a new lawyer would need a continuance to adequately prepare for trial.

1 Defendants Eric McGowan and Crystal Staudt were not in custody or arraigned at the time
2 the original trial date was set.

3 The parties previously stipulated to continuance of the trial date via a motion filed by
4 defendant Keith Lamont Sims on June 2, 2005. Trial was continued to September 6, 2005.

5 Shortly thereafter, defendant McGowan was arrested. His counsel, Gil Levy,
6 requested (without any objections) a brief continuance to accommodate a previously
7 scheduled continuance. The Court granted that motion, and reset trial to September 13,
8 2005.

9 Defendant Staudt was then writ over from state custody to face these charges, and
10 arraigned on August 11, 2005. The Court set a trial date for October 17, 2005 as to
11 Ms. Staudt only.

12 **III. DISCUSSION**

13 The parties submit that the trial in this matter as to all defendants should be
14 continued to October 17, 2005 - the date already set for defendant Crystal Staudt's trial.
15 Pursuant to Title 18, United States Code, Sections 3161(h)(8)(B)(i) and (iv), this
16 Court has discretion to order continuance of the existing trial date in circumstances
17 where:

18 (i) . . . the failure to grant such a continuance in the
19 proceeding would be likely to make a continuation of such
20 proceeding impossible, or result in a miscarriage of justice;
[and]

21 (iv) . . . the failure to grant such a continuance in a case
22 which, taken as a whole, is not so unusual or so complex as to
23 fall within clause (ii), would deny the defendant reasonable
24 time to obtain counsel, would unreasonably deny the
25 defendant or the Government continuity of counsel, or would
26 deny counsel for the defendant or the attorney for the
27 Government the reasonable time necessary for effective
28 preparation, taking into account the exercise of due diligence.

1 In addition, pursuant to 18 U.S.C. § 3161(h)(7), any “reasonable period of delay
2 where the defendant is joined for trial with a codefendant as to whom the time for trial has
3 not run and no motion for severance has been granted” is excluded when computing the
4 time within which trial must be commenced.

5 In this case, the parties agree that a continuance is necessary to permit further trial
6 preparation. This case is factually complex, involving seven separate defendants and an
7 alleged loss amount of approximately \$300,000 - which was incurred in separate \$100
8 increments. The Government has produced a significant volume of discovery, some of it
9 fairly recently.

10 In addition, the parties believe further time is necessary to explore negotiated pleas
11 to resolve this case - some of which are quite complex. For example, one of the
12 defendants is exploring cooperating with local law enforcement on a pending, unrelated
13 investigation, in return for which he/she would receive consideration from the Government
14 on these charges. Several of the defendants have proffered information to the
15 Government, and the Government is in the process of evaluating the truthfulness and
16 usefulness of the proffers.

17 The parties stipulate and agree that the ends of justice served by a continuance
18 outweigh the best interests of the public and the defendants in a speedy trial. The failure to
19 grant a continuance based upon the Government’s and defendants’ need to prepare the
20 matter for trial would result in a miscarriage of justice by denying the parties the
21 reasonable time necessary for effective preparation for trial, taking into account the
22 exercise of due diligence.

23 Defendants will file speedy trial waivers through the end of November 2005.

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IV. CONCLUSION

For the reasons set forth above, the parties respectfully request that this Court GRANT this motion and continue the trial date to October 17, 2005, or any other date before the end of November 2005, convenient for the Court's schedule.

DATED this 30th day of August, 2005.

Presented by:

/s/ Vincent T. Lombardi
VINCENT T. LOMBARDI
Assistant United States Attorney

Approved for entry by:

/s/
Bruce D. Erickson
Attorney for Tony Tabuba
Via Telephone Authority, 8/18/05

/s/
Ralph Hurvitz
Attorney for Mark Carillo
Via Telephone authority, 8/16/05

/s/
Peter Mazzone
Attorney for DollyAnn Cooper
Via Telephone Authority, 8/18/05

/s/
Gilbert Levy
Attorney for Eric McGowan
Via telephone authority, 8/19/05

ORDER

IT IS SO ORDERED.

DATED this 9th day of September, 2005.

/S/Marsha J. Pechman
THE HONORABLE MARSHA J. PECHMAN
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

s/
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